

GOVERNMENT OF TELANGANA

ABSTRACT

Public Servants – Allegation of corruption against Sri E. Ashok Kumar, TPBO, formerly L.B. Nagar Municipality – Trapped on 24.9.2001 – Charge sheet filed in the ACB Court Hyderabad in CC No. 15/2002 – Convicted – Dismissal from service – Appeal filed in Hon'ble High Court – Acquitted – Further action dropped – Orders Issued.

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MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT(Vig.I(1))DEPARTMENT

G.O.RT.No. 72.

Dated:26-02-2015

Read the following:-

1. From the DTCP, AP, Hyd. Proc. Roc.No.9543/2001/M3, dated .9.2001.
- 2.From the DG, ACB, Hyd. Lr.No.150/RCT-HRG/2001, dated 3.10.2001.
3. From the DG, ACB, Hyd. Lr.No.150/RCT-HRG/01-S3, dated 2.1.2002.
- 4.G.O.Ms.No.332, MA&UD (V1) Deptt., dated 16.7.2002.
5. From the DTCP, AP, Hyd. Proc. Roc.No.9543/2001/M3, dated 29.1.2004.
- 6.From the DG, ACB, Hyd. Lr.Rc.No.150/RCT-HRG/2001, dated 27.2.2007.
- 7.Judgement of the Addl. Spl. Judge for SPE & ACB Cases, Hyderabad, dt. 19.2.2007 in CC No. 15/2002.
8. From the DTCP, Lr. Roc. No. 9543/2001/M3, dated 28.2.2007.
- 9.Govt.Memo. No.20528/Vig.I(i)/2001-11, MA&UD Deptt., dated 5.3.2007.
10. Orders of APAT dated.19.9.2007, in O.A No. 1443/2007.
11. Govt. Memo. No. 20528/Vig.I (1)/2001-18, dated.24.11.2007.
- 12.From the DTCP, Hyd. Procs. No.9543/2001/M3, dated 11.1.2008.
- 13.Judgement of High Court of A.P dated 17-11-2009, in W.P No. 26965 of 2007 filed by Government against the orders of APAT in O.A No. 1443/2007, dated. 19.9.2007.
- 14.From the DTCP, Hyderabad Ir. No. 9543/2001/M3, dated. 20.1.2010.
15. Govt. Memo. No. 20528/Vig.I (1)/2001-22, dated 11.11.2011.
- 16.From the Hon'ble High Court of Andhra Pradesh, Judgement dated 12.12.2013 in Crl. Appeal No.255/2007.
- 17.Sri E.Ashok Kumar, TPBO, GHMC, Hyderabad, Reptn. Dated 19.12.2013.
- 18.C.A.No.1888/2014 in O.A.No.4083/2014, Hon'ble APAT, Hyderabad.

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**ORDER:-**

Where as in the reference Ist read above, the DTCP, Hyderabad has issued orders, placing the AO, Sri E.Ashok Kumar, TPBO, L.B.Nagar Municipality, under suspension, who trapped by ACB on 24.9.2001, on allegation of demand and acceptance of bribe amount Rs.2,000/- from the complainant . Whereas, in the reference 3<sup>rd</sup> read above, the Director General, ACB, Hyderabad has furnished final report in this case and recommended to prosecution the AO under Section 7, 13 (1) (d) and (I & ii) r/w 13 (2) of Prevention of Corruption Act, 1988.

2. Whereas, Government after careful examination of the matter, order were issued according sanction for prosecution of Sri E.Ashok Kumar, TPBO, L.B.Nagar Municipality, vide reference 4<sup>th</sup> read above. Further, the AO was reinstated into service vide reference 5<sup>th</sup> read above.

3. Whereas, in the reference 6<sup>th</sup> read above, the DG, ACB, Hyderabad, while enclosing the Judgment of Addl. Spl. Judge for SPE & ACB Cases, Hyderabad, dated 19.2.2007 in CC No. 15/2002, have informed that the AO, Sri E.Ashok Kumar, TPBO, was convicted in the Court of Spl. Judge for SPE and ACB Case, and requested to take necessary action in the matter. Govt. after examination of the matter, the DTCP, Hyderabad has been directed to consider the facts of case and impose penalty of dismissal for Sri E.Ashok Kumar, TPBO, from service in terms of rule 25 (i) of APCS (CCA) Rules, 1991, vide reference 9<sup>th</sup> read above. Accordingly, DTCP, Hyderabad has dismissed the AO, from service, vide Procs. No.9543/2001/M3, dated: 7.3.2007.

4. Whereas, as per the orders dated 19.9.2007 of Hon'ble APAT in O.A.No.1443/2007, filed by Sri E.Ashok Kumar, TPBO, the AO the DTCP, Hyderabad was requested to reinstate the AO into service and file appeal in Hon'ble High Court of Andhra Pradesh, vide reference 11<sup>th</sup> cited. Further, the Hon'ble High Court of Andhra Pradesh in its common judgment dated 17.11.2009 in W.P.No.26965/2007 and batch cases, have allowed the W.P.No.26965/07, and set aside the impugned orders of the Tribunal and the O.A.'s filed by the respondents are dismissed. Accordingly, while enclosing copy of the above Judgement of Hon'ble High Court, the DTCP, Hyderabad was requested to issue necessary orders on the dismissal of Sri E.Ashok Kumar, TPBO from service, in the light of the judgement for taking necessary action and compliance report as called for by High Court of Andhra Pradesh, vide reference 15<sup>th</sup> cited.

5. Whereas, in the reference 16<sup>th</sup> read above, the Hon'ble High Court of Andhra Pradesh in its judgement dated 5.12.2013 in Criminal Appeal No.255/2007, among others, have passed as follows:-

" in the present case, originally, according to the prosecution, the demand was made in the month of March, 2001. Whereas the trap was laid on 24.09.2001. It is the case of prosecution that during the time of trap, the AO was incharge of the particular place, where the house of father-in-law of P.W.1 was constructed. To substantiate the same, the prosecution examined one of the clerks attached to the office. The oral testimony of the said witness is to the extent that he was incharge of that area for particular period. To substantiate them same, nothing is produced by the prosecution before the Court by way of documentary evidence. On the other hand, the AO produced Ex.D.1, which clearly indicates that the AO was not the incharge of that particular area i.e. Saroornagar, for which, the regularization file of father-in-law of P.W.1 is related to. Furthermore the prosecution failed to prove that there was any official favour pending with the A.O. Ex.D.1 is the proceedings issued with the approval of the then Commissioner, which clearly indicates that the appellant was not incharge of Saroornagar area. So, it is the duty of the prosecution, as stated earlier, to prove that some official favour was pending with the appellant herein and he was incharge of the said area. Further it is the duty of the prosecution to prove that there was demand of bribe and the same was accepted by the AO and it should be established by way of independent witness. In the present case, nothing is on record to substantiate the fact that there was demand and acceptance of bribe by the appellant herein. Further it is evident that even prior to the trap proceedings, the file of P.W.1 was processed and the orders were also passed. Hence, the question of demand of money from P.W.1 by the appellant does not arise. The entire case of prosecution suffers with discrepancies and that the prosecution has not proved its case beyond all reasonable doubt. In the absence of

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any clinching evidence to connect the AO with the crime more particularly in these type of cases, it is highly unsafe to convict the accused for the offences with which, he is charged. Hence, the convictions and sentences imposed by the trial court are not sustainable and liable to be set aside.

In the result, the criminal appeal is allowed setting aside the impugned judgement. The convictions and sentences imposed on the AO are hereby set aside and he is found not guilty of the offences and acquitted of the charges. The fine amount, if any, paid by the AO shall be returned to him. Miscellaneous petitions, if any pending, shall stand closed.

6. Whereas, in the reference 17<sup>th</sup> read above, Sri E.Ashok Kumar, TPBO, has requested to reinstate him into service as per the Judgement of Hon'ble High Court of Andhra Pradesh. He has also filed O.A.No.4083/2014 in Hon'ble APAT, Hyderabad praying to reinstate him into service as per Judgement of Hon'ble High Court of Andhra Pradesh. Further, he has filed C.A.No. 1888/2015 in O.A.No.4083/2014, to implement the orders of Hon'ble APAT, Hyderabad.

7. Government after careful examination of the matter, and by obtaining advice of advisory authority, have decided to reinstate Sri E.Ashok Kumar, TPBO into service in the light of the judgment dated 5.12.2013 of High Court of Andhra Pradesh in Crl. Appeal No.255/2007 duly dropping further proceedings against him in the case.

8. Accordingly, Government hereby drop further action against Sri E.Ashok Kumar, TPBO and the Director of Town & Country Planning, Telangana State, Hyderabad is hereby direct to reinstate Sri E.Ashok Kumar, TPBO into service in the light of the judgment dated 5.12.2013 of High Court of Andhra Pradesh in Crl. Appeal No.255/2007, dated 5.12.2013, so as to avoid legal complications in the matter.

9. The Director of Town & Country Planning, A.P., Hyderabad shall take further action in the matter and furnish compliance report to Government.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

**M.G.GOPAL**  
**PRINCIPAL SECRETARY TO GOVERNMENT**

To  
The Director of Town and Country Planning, Hyderabad.  
The individual through Director of Town and Country Planning, Hyderabad.

**Copy to:**

The Commissioner, Greater Hyderabad Municipal Corporation, Hyderabad.  
The Govt. Pleader for MA&UD Deptt.,(Ser.)  
APAT, Hyderabad.  
The Director General, ACB, Hyderabad.  
SF/SC

// Forwarded by Order //

**SECTION OFFICER**